

## Message Text

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ORIGIN TRSE-00

INFO OCT-01 EUR-12 ISO-00 AID-05 CEA-01 CIAE-00 COME-00

EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02 STR-04

LAB-04 SIL-01 OMB-01 L-03 H-01 PA-01 PRS-01 ITC-01

SS-15 NSC-05 XMB-02 USIE-00 INRE-00 NSCE-00 SSO-00

/078 R

DRAFTED BY TREASURY:THUME:LPP

APPROVED BY EB/OT/STA:JSPIRO

EUR/WE:KSHIRLEY

EB/OT/STA:MCJONES

EUR/RPE:RBRESLER

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FM SECSTATE WASHDC

TO AMEMBASSY BRUSSELS IMMEDIATE

INFO USMISSION EC BRUSSELS

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E.O. 11652:N/A

TAGS: ETRD, BE

SUBJECT:COUNTERVAILING DUTY LITIGATION - FLOAT GLASS FROM  
BELGIUM

REF: STATE 277040

1. LAST WEEK THE U.S. CUSTOMS COURT DENIED USG'S MOTION TO  
DESIGNATE U.K. FLOAT GLASS AS TEST CASE. IT NOW BECOMES  
NECESSARY TO PROCEED WITH DISCOVERY SEPARATELY IN EACH OF  
THE FLOAT GLASS CASES (BELGIUM, WEST GERMANY, U.K.). AS  
EXPLAINED BY TREASURY DEPUTY ASSISTANT SECRETARY SUCHMAN  
DURING HIS RECENT VISIT TO BRUSSELS, BELGIAN GOVERNMENT  
MUST NOW ADVISE WHETHER IT WILL AGREE TO DISCLOSE  
INFORMATION SUBMITTED TO TREASURY DURING COURSE OF COUNTER-  
VAILING DUTY INVESTIGATION.

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2. THE JUSTICE DEPARTMENT IS WILLING TO SEEK A PROTECTIVE

ORDER WHICH WOULD RESTRICT DISCLOSURE OF BELGIAN GOVERNMENT INFORMATION TO JUDGE ALONE (OPTION 1). HOWEVER, JUSTICE ADVISES THAT SHOULD OPTION 1 BE DENIED, HAVING PURSUED IT COULD JEOPARDIZE CHANCES OF OBTAINING PROTECTIVE ORDER LIMITING DISCLOSURE TO JUDGE AND PLAINTIFFS' COUNSEL (OPTION 2).

3. IN SEEKING EITHER PROTECTIVE ORDER (OPTIONS 1 OR 2) IT WILL BE NECESSARY TO OBTAIN APPROPRIATE AFFIDAVIT FROM BELGIAN GOVERNMENT WHICH NOTES THAT INFORMATION IS CONSIDERED CONFIDENTIAL AND WOULD NOT HAVE BEEN SUBMITTED TO USG WITHOUT ASSURANCES THAT IT WOULD BE TREATED AS STRICTLY CONFIDENTIAL. COMPANION AFFIDAVIT WILL BE SUBMITTED BY TREASURY NOTING COMMITMENT OF CONFIDENTIAL TREATMENT AND ADVERSE IMPLICATIONS FOR FUTURE ADMINISTRATION OF COUNTERVAILING DUTY LAW IF SUCH ASSURANCES NOT HONORED BY COURTS AS WELL.

4. WITH DENIAL OF MOTION TO DESIGNATE U.K. AS TEST CASE, JUSTICE FEELS THAT MAXIMUM IMPACT CAN BE OBTAINED BY PROCEEDING SIMULTANEOUSLY WITH ALL THREE FLOAT GLASS CASES. WITH A TWO WEEK EXTENSION ALREADY GRANTED IN THE U.K. CASE, NOTICE TO SEEK EITHER OPTION 1 OR 2 MUST BE FILED WITH COURT ON TUESDAY, DECEMBER 21. IN ORDER TO ALLOW FOR PREPARATION OF APPROPRIATE AFFIDAVIT DECISION BY BELGIAN GOVERNMENT MUST BE MADE AND COMMUNICATED TO TREASURY (DAS SUCHMAN) ASAP BUT NO LATER THAN TUESDAY, DECEMBER 14.

5. EMBASSY IS REQUESTED TO DISCUSS THESE DEVELOPMENTS WITH BELGIAN OFFICIALS AS SOON AS POSSIBLE. YOU MAY ASSURE THEM THAT IN EVENT THEY CHOOSE OPTION 1, AS WE BELIEVE WILL BE THE CASE, AND IT IS DENIED BY THE COURT, BELGIAN GOVERNMENT WILL BE ADVISED IMMEDIATELY AND OPTION 2 WILL BE ATTEMPTED IF BELIGAN GOVERNMENT DESIRES. SHOULD THIS TRANSPIRE WE EXPECT THERE WILL BE VERY LITTLE TIME FOR GOB TO INDICATE WILLINGNESS TO PURSUE OPTION 2. AS DASSUCHMAN INDICATED IN NO CASE WILL THE INFORMATION SUBMITTED IN CONFIDENCE BE DISCLOSED EXCEPT AS AGREED TO BY GOB THOUGH THIS COULD BE LIMITED OFFICIAL USE

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TANTAMOUNT TO CONCEDING THE CASE IF THE COURT DOES NOT GRANT A PROTECTIVE ORDER.

6. SITUATION HAS BEEN DISCUSSED WITH BELGIAN EMBASSY. ROBINSON

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## Message Attributes

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**To:** BRUSSELS  
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